

Deval L. Patrick
Governor

Timothy P. Murray
Lieutenant Governor

Kevin M. Burke
Secretary

The Commonwealth of Massachusetts

Department of Public Safety

Board of Building Regulations and Standards

One Ashburton Place, Room 1301

Boston, Massachusetts 02108-1618

Phone (617) 727-7532 Fax (617) 227-1754

TTY (617) 727-0019

www.mass.gov/dps

Thomas G. Gatzunis, P.E.
Commissioner

Gary Moccia, P.E.
Chairman

Alexander MacLeod, R.A.
Vice Chairman

Robert Anderson
Administrator

Date: July 17, 2008

Name of Appellant: Michael Marion

Service Address: R.G. Vanderweil Engineers, Inc
274 Summer Street
Boston, MA 02210

In reference to: 200 Mullins Way
Amherst, MA 01003

Docket Number: 05-447

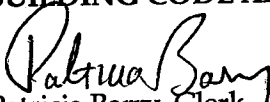
Property Address: 200 Mullins Way
Hadley, MA 01003

Date of Hearing: 07-24-07

We are pleased to enclose a copy of the decision on the request for certain variances from the Building Code.

Sincerely:

BUILDING CODE APPEALS BOARD


Patricia Barry, Clerk

cc: Building Code Appeals Board
Building Official

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**Building Code Appeals Board
Docket No. 05-447**

University of Massachusetts, Amherst,)	
Appellant)	
)	
v.)	
)	
Department of Public Safety,)	
Appellee)	
)	

BOARD'S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, Appellant asks the Board to grant variances from 780 CMR 418.3.2; NFPA 30: 2.3.3.2.1; NFPA 11: 4.3.2.1.1; and 780 CMR Table 602 of the Massachusetts State Building Code ("Code") with respect to the fuel oil storage facility that is part of the Recreation Center at the University of Massachusetts Amherst ("Project").

By e-mail dated January 17, 2007, State Building Inspector David C. Holmes, on behalf of the Department of Public Safety ("Appellee"), issued a violation notice with respect to the above-cited Code requirements.

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR 1.02 et. seq.; and 780 CMR 122.3.4, the Board convened a public hearing on July 24, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present at the hearing were: Michael Marion; Tony Caputo; Eric Cote; State Building Inspector David C. Holmes; William Klaus, Captain, Amherst Fire Department; Michael Spanknebel, Lieutenant, Hadley Fire Department; Dana Haagensen of the Department of Fire Safety; Keith Garrant, Keith Hoyle, Fire Chief for the Town of Amherst.

Exhibits

Exhibit 1: Four color copies of photographs of foam house showing its location relative the tank farm, and where the tank farm is relative to the Project.

Exhibit 2: Copy of letter dated July 23, 2007 from Captain William Klaus, Amherst Fire Department and Lieutenant Michael Spanknebel, Hadley Fire Department to the Board of Building

Regulations and Standards, opposing the compliance alternatives and supporting moving the foam house.

Exhibit 3: Ten color copies of photographs showing various angles of tank farm relative to the open canopy over the tank farm.

Discussion

Foam House Location

The first issue is whether a variance from 780 CMR 418.3.2 should be allowed so the foam house may remain located near fuel tanks, as shown in Exhibit 1. Section 418.3.2 requires compliance with NFPA 30, which, in turn, invokes NFPA 16 and NFPA 11, section 4.3.2.1.1. This section requires the foam house to be located a safe distance from the fuel oil tank dike wall (as shown in Exhibit 1).

Appellant requested a variance based on five compliance alternatives (as set forth in Appellant's State Building Code Appeals Board Appeal Application). The Board considered testimony from Hadley and Amherst fire officials supporting the relocation of the foam house and opposing the compliance alternatives.

Fuel Tank Protection

The next issue is whether a variance from NFPA 30: 2.3.2.2.1 should be allowed so the two fuel oil tanks can be located at four (4) feet apart, rather than the required minimum separation (based on the tanks' diameter) of six (6) feet, one (1) inch. In addition, in a prior Board appeal, Appellant had represented that it would paint the fuel oil tanks with an intumescent coating. However, after further analysis, Appellant has concluded that the fuel oil would provide a sufficiently large heat sink to preclude an intumescent coating from reacting to heat.

Tank Farm Column Fire Resistance Rating

The final issue was whether a variance from 780 CMR Table 602, which would require a three-hour fire resistance rating on all 32 columns the support the canopy over the fuel oil tank storage facility, an associated equipment. The municipal fire departments supported coating at least 6 columns to achieve the required fire resistance rating, but did not believe that more than 12 coated, given the open nature of the structure (as shown in Exhibit 3).

Decision

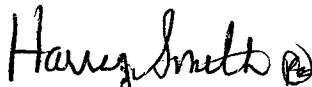
The Chair entertained the following motions: (1) to **deny a variance** from 780 CMR 418.3.2, based on the concerns of the municipal fire officials and that the location of the foam house, as constructed, was considered by the Board to be a design error that could have been avoided prior to construction; (2) to allow the variance from NFPA 30: 2.3.2.2.1 and delete the requirement for intumescent coating on the fuel oil tanks; and (3) to allow the variance from 780 CMR Table 602 so 6 of the columns in the tank area canopy would be required to have a three-

hour resistance rating and allowing the removal of paint where fire protection engineers and fire services determine paint is not required (collectively, "Motions").

Following testimony, and based upon relevant information provided, Board members voted unanimously to allow the Motions, as described on the record.



Brian Gale



Harry Smith – Chair

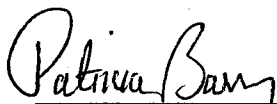


Alexander MacLeod

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: July 17, 2008



Patricia Barry, Clerk

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of \$10.00 per copy. Please make requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

Patricia Barry, Coordinator
State Building Code Appeals Board
BBRS/Department of Public Safety
One Ashburton Place – Room 1301
Boston, MA 02108